

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

GEORGE BERGIN

Plaintiff,

V.

THE STATE OF TEXAS, LEWIS
TATUM, as Sheriff of Hopkins County and
Individually, and DUSTY RABE, as
Hopkins County Attorney and Individually.

Defendants.

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Civil Action No. 4:20-CV-00017

MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT: Now Comes GEORGE BERGIN, Plaintiff in the above-captioned matter and makes and files this, his MOTION FOR LEAVE TO FILE AMENDED COMPLAINT, and by such Motion would show the Court as follows:

INTRODUCTION

1. Plaintiff George Bergin, has previously filed an Amended Complaint within this action in a timely manner pursuant to this Court's scheduling order in this case.
2. The sole purpose of such amended complaint was to add additional Defendants at the urging of Defendant State of Texas.
3. Plaintiff mistakenly filed the Amended Complaint without requesting leave from this Court.
4. Plaintiff is filing the immediate motion to correct this error and requests that the Amended Complaint be deemed timely upon the granting of leave to amend.
5. Plaintiff does not seek to alter the status of the case in any other manner, other than the adding of additional parties at the request and urging of Defendant State of Texas.

REQUEST FOR LEAVE

6. Plaintiff requests from this Court leave to amend his Complaint in this case for the purpose of adding additional Defendants in response to Defendant State of Texas's urging and arguments concerning the liability of such third parties.

7. Plaintiff is not seeking to delay or do any injustice to the parties or this case by seeking this leave to amend. Plaintiff does not seek to alter the fundamental nature of this case and such leave should be granted in the interest of justice.

PRAYER FOR RELIEF

WHEREFORE PREMISES CONSIDERED, Plaintiff requests that this Court grant his request for leave to file an amended Complaint and that such previously filed amended complaint be deemed timely and permitted to be the new live pleading in this matter. Plaintiff further requests any and all other relief to which he might otherwise be entitled whether in law or equity.

Respectfully Submitted,

/s/ Ross B. Russell
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AND

/s/ Carter L. Hampton

CARTER L. HAMPTON

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

I certify that on August 5, 2020, Plaintiff's counsel attempted to conference with opposing counsel regarding this Motion for Leave. Opposing counsel has been nonresponsive to Plaintiff's counsel's requests and therefore Plaintiff's counsel presumes that opposing counsel is opposed. Plaintiff's counsel has made every reasonable effort to obtain a response regarding this matter and none has been provided. Therefore, this Motion is being presented to the Court for determination.

/s/ Ross B. Russell

CERTIFICATE OF SERVICE

I certify that on August 10, 2020, this document was served through the Court's CM/ECF Document Filing System or through electronic mail, upon the following counsel of record:

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Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

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ATTORNEYS FOR DEFENDANT TEXAS

/s/ Ross B. Russell